

REMARKS

The Examiner has rejected claims 1-3, 16-20 and 23 under 35 U.S.C. § (b) as being anticipated by Smith, U.S. Patent No. 707,803. In addition, the Examiner has rejected claims 21-22 under 35 U.S.C. § 103 as being unpatentable over the Smith '803 patent in view of Finkbeiner, U.S. Patent No. 6,213,451. As hereinafter described, applicant has amended independent claim 1 to more particularly define the invention for which protection is sought. For the reasons hereinafter described, it is believed that independent claim 1 now defines over the cited references, and is in proper form for allowance.

Claim 1 defines a flush mounted presser assembly for a die cutting machine. The flush mounted presser assembly includes a support member having an upper surface which defines a substantially horizontal plane. A presser is movable vertically in a plane perpendicular to a horizontal plane between a first extended position spaced from the support member beneath said horizontal plane and a second retracted position beneath said horizontal plane. The presser includes a longitudinally extending upwardly opening channel. Mounting means operatively connect the presser to the support member. The mounting means are disposed flush with or below the horizontal plane so that the mounting means does not extend above the horizontal plane. The mounting means includes a linkage assembly that interconnects the support member and presser. The linkage assembly includes an arm interconnecting the support member and presser. The arm has a lower end mounted to the presser that simultaneously pivots and moves horizontally with respect to the support as the presser moves between the extended and retracted positions. The arm also includes an upper end pivotally mounted to the support member. A link interconnects the arm and the presser. The link has an upper end pivotally mounted to the arm and a lower end pivotally mounted to the presser. The linkage assembly also includes a slider mounted for horizontal sliding movement in the presser. The lower end of the arm is pivotally mounted to the slider and the slider is disposed in the channel. Biasing means biases the linkage

assembly and presser towards the extended position. The biasing means includes a spring disposed within the channel acting against the slider. As hereinafter described, none of the cited references show or suggest a structure.

The Smith '803 patent discloses a clamp and first and second beams terminating in vise-jaws. Two flat toggle-levers are either connected between the beams and are pivotally connected at their center by a bolt. The clamp also includes a bar having a first threaded end and a second opposite end having notches therein. A jaw having teeth is adapted to catch the notches and to hold the jaw in a predetermined position.

The Finkbeiner '451 patent discloses a lifting apparatus having an upwardly opening U-shaped channel with a slider disposed therein for controlling movement of the lifting unit. A strut or a hydraulic cylinder is used to move the lifting arm between a first extended and a second retracted position.

Initially, it is noted that the Examiner combined the technologies of a clamp and a hydraulic lifting device to provide a presser assembly for supporting a carton of blanking scrap during a blanking operation in a die cutting machine. Clearly, these references are from non-analogous art. The presser assembly defined in new independent claim 1 is intended for use in die cutting machines for making carton blanks. As such, it includes a fixed support member interconnected to the upper tool of the die cutting machine and a presser vertically spaced beneath the support member that is vertically movable with respect to and biased away from the support member. Neither the Smith '803 nor the Finkbeiner '451 patents show or suggest this arrangement. The Smith '803 patent shows a clamp wherein the lower vice jaw is not fixed and wherein the jaws are intended to be maintained and separated in a predetermined position. On the other hand, the Finkbeiner '451 patent shows a lifting apparatus that moves a load receiver up and down. While, the load receiver is movable between an extended and a retracted position, the

load receiver and/or the carrier arm is not biased toward or away from its support. Hence, it is doubtful that one skilled in the art of die cutting machines would look to a clamp and to a lifting apparatus for flat construction vehicles to provide a presser assembly for a die cutting machine.

Further, as heretofore described, independent claim 1 requires the biasing means to be disposed within the channel of the presser so as to urge the presser towards its extended position. The Examiner suggests that the Smith '803 patent may be modified utilizing the linkage disclosed in the Finkbeiner '451 patent to provide structure now defined in independent claim 1. However, the Examiner concedes that the Finkbeiner '451 patent does not disclose the use of a spring disposed within the channel acting against the slider. However, the Examiner suggests that such a modification would have been obvious to one of ordinary skill in the art. However, the Finkbeiner '451 patent define a lifting apparatus. As such, the structure utilizes a hydraulic cylinder for controlled lifting and retraction of the carrier arm. There would be no suggestion or incentive to modify the linkage disclosed in the Finkbeiner patent to bias the load receiver toward the extended position since a primary function of the lifting apparatus is to maintain the load receiver in a fixed, elevated position.

In addition, there is no incentive to modify the lifting apparatus disclosed in the '451 patent to provide a biasing means that would urge the load receiver and/or carrier arm to their extended positions. First, it would be impractical for a lifting apparatus to be biased towards its extended position. As is known, any lifting apparatus must be repeatedly brought to a retracted position to acquire a load to be lifted. Further, in its extended position, the load receiver and carrier arm of a lifting apparatus must be maintained in such position and not allowed to be urged towards its support. Utilizing a biasing means in the lifting apparatus of the '451 patent would be hazardous.

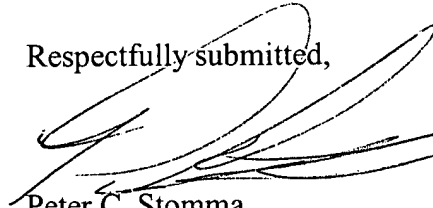
It is also noted that independent claim 1 requires the biasing means be maintained within the channel and the presser. Such an arrangement is not shown in either of the Finkbeiner '451 patent or the Smith '803 patent. In the '451 patent, since the hydraulic cylinder is used to support the carrier arm, moving the cylinder in the support cannot be considered an obvious modification. Finally, even if the clamp disclosed in the Smith '803 patent could be modified as suggested by the Examiner to incorporate the linkage of the Finkbeiner '451 patent, such a structure would not provide for the presser assembly of the present invention. As heretofore described, the clamp disclosed in the '803 patent includes a bar having a first threaded end and a second opposite end having notches therein. A jaw having teeth is adapted to catch the notches and to hold the jaw in a predetermined position. On the other hand, the presser assembly of the present invention must be resilient. In other words, the presser of the presser assembly must be free to move between its extended and retracted position in order to engage a sheet of paper material such that a scrap portion of a large sheet of material is secured between the presser and a frame. Both the Smith '803 patent and the Finkbeiner '451 patent are incapable of such a function.

In view of the foregoing, it is believed that independent claim 1 clearly defines over the cited reference and is in proper form for allowance. Claims 2-3 and 17-19 depend either directly or indirectly from independent claim 1 and further define a presser assembly not shown or suggested in the prior art. It is believed that claims 2-3 and 17-19 are allowable as depending from an allowable base claim and in view of the subject matter of each claim.

U.S. Serial No.: 10/035,732
Group Art Unit: 3721
Inventor: Frank E. Oetlinger
Page 10

Applicant believes that the present application with claims 1-3 and 17-19 is in proper form for allowance and such action is earnestly solicited.

Respectfully submitted,



Peter C. Stomma
Registration No. 36,020

Dated: 12/23/04

BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ, S.C.
250 Plaza, Suite 1030
250 East Wisconsin Avenue
Milwaukee, WI 53202
Telephone: (414) 225-9755
Facsimile: (414) 225-9753
Docket No.: 599.018